

Atty Sanoian, Joanne (for Elisa Ann Skibsrud – Executor – Petitioner)

First Amended First and Final Account and Report of Executrix; Petition for Its Settlement; for Allowance of Attorney and Executrix Ordinary Fees and Extraordinary Fees; for Attorney Fees and Reimbursement of Costs Advanced and for Final Distribution (Prob. C. 1060 et seq, 10951, 10810, 10800, 10900, 10951, 11640)

DOD: 11-7-01			ELISA ANN SKIBRUD , Executor with full IAEA without bond, is Petitioner. Account period: 11-8-01 through 6-7-11 Accounting: \$74,922.43 Beginning POH: \$46,147.59 Ending POH: \$53,729.04 (Cash) Executor: \$2,868.89 (Statutory) Executor (XO): \$977.00 (per Local Rule) Attorney: \$2,868.89 (Statutory) Costs: \$395.00 (filing fee) Pursuant to Revenue and Tax Code §19516, the IRS has priority for all income taxes owed over other claims of the estate. The remaining amount after payment of the expenses of administration (\$46,619.26) should be distributed to the IRS for payment of Decedent's income taxes owed. There is not enough money left to satisfy the creditor's claims and distribution to heirs. If there are remaining assets or should additional assets be discovered, Petitioner requests authorization to satisfy the creditor's claims as filed.	NEEDS/PROBLEMS/COMMENTS: <u>CONTINUED TO 11/07/11</u> <u>AT REQUEST OF COUNSEL</u> 1. Need proof of service of Notice of Hearing at least 15 days prior to the hearing on each creditor who's claim is allowed or approved but is unpaid in whole or in part per Probate Code §11000(a)(5): - California Built-In Distributors - Saint Agnes Medical Center - Farmers Insurance Group - Providian National Bank - Verizon Wireless 2. Probate Code §10257 requires that if personal property is sold on credit, at least 25% of the purchase price shall be paid in cash, and the personal representative shall either take the note with a security interest in the property or retain the title until the balance is paid. Petitioner sold one of the assets of the estate (a vehicle) for \$3,000.00 under a promissory note where the buyer was to pay \$400.00/mo until the total amount was paid; however, the buyer disappeared, and a loss of \$3,000.00 on the note is reported. The Court may require clarification and may not approve this act of Petitioner. <u>SEE PAGE 2</u>
Aff.Sub.Wit.				
✓ Verified				
✓ Inventory				
✓ PTC				
✓ Not.Cred.				
✓ Notice of Hrg				
✓ Aff.Mail				
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Duties/Supp				
Objections				
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Aff. Posting				
Status Rpt				
UCCJEA				
Citation				
✓ FTB Notice				
Petitioner prays for an Order that: 1) Notice of hearing of this account, report, and petition be given as required by law; 2) The court make an order approving allowing and settling the attached account and report of the estate filed; and 3) All the acts and proceedings of Petitioner as Executor be confirmed and approved.				

Atty Sanoian, Joanne (for Elisa Ann Skibsrud – Executor – Petitioner)
First Amended First and Final Account and Report of Executrix; Petition for Its Settlement; for Allowance of Attorney and Executrix Ordinary Fees and Extraordinary Fees; for Attorney Fees and Reimbursement of Costs Advanced and for Final Distribution (Prob. C. 1060 et seq, 10951, 10810, 10800, 10900, 10951, 11640)

NEEDS/PROBLEMS/COMMENTS (Continued):

- 3. The Disbursements Schedule indicates a retainer for costs was paid to Attorney Sanoian on 1-2-02. If this amount was used, need itemization or verification of compliance with Local Rule 7.17. If not used, need clarification regarding the request for reimbursement of \$395.00 in filing fees.**
- 4. The Disbursements Schedule indicates \$305.00 reimbursed to Petitioner on 5-15-02 for “costs of administration.” Need itemization or verification of compliance with local Rule 7.17.**
- 5. The Disbursements Schedule indicates payments made from an account at Golden One Credit Union that was not inventoried. Need clarification.**
- 6. Need Order.**

2A Charles George Martin (Estate) Case No. 03CEPR01109**Atty Ramirez, Edward R., Jr. (of Clovis, for Maria Elena Martin – Spouse – Administrator)****Atty Ramseyer, Ryan A. (of San Jose, for Charles D. Martin and Dawn Salcedo – Son and Daughter – Petitioners)****Petition to Remove Personal Representative and for Accounting**

DOD: 6/2/03		<p>CHARLES D. MARTIN and DAWN SALCEDO, Decedent's son and daughter, are Petitioners.</p> <p>MARIA ELENA MARTIN, Surviving Spouse, was appointed Administrator with Limited IAEA and bond of \$206,000.00 on 10-28-03. <i>Bond was filed and Letters issued on 3-18-04.</i></p> <p>Petitioners state they are intestate heirs as Decedent's adult children. The estate includes real property in Dos Palos, CA, and 14 classic cars. Petitioners state Administrator has continued to live in the property rent-free to the detriment of the estate, has neglected the estate by failing to take steps to market the assets for sale, and Petitioners also believe she has failed to marshal and preserve other estate personal property assets (<i>not specified</i>).</p> <p>Petitioners request removal of Administrator pursuant to Probate Code §8502 due to inaction and neglect and failure to reasonably administer the estate because she has failed to make the estate property productive, has lived in the property for the last seven years without paying rent, has failed to take steps to ready the assets for sale, has failed to marshal and preserve other estate property.</p> <p>Petitioners also request that the court issue an order compelling an accounting by Administrator pursuant to Probate Code §10950.</p> <p>Petitioners further request attorney's fees and costs allowed by law, and such other relief as the court deems just and proper.</p> <p style="text-align: center;"><u>SEE PAGE 2</u></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u><i>Page 2B is Petitioners' Petition for Letters of Administration, Page 2C is Respondent's First Account, and Page 2D is Petitioners' Objections to Accounting, Request for Surcharge, and Petition for Return of Estate Property</i></u></p> <p><u>Continued from 8/21/11 per stipulation. Minute Order from the last hearing of 7/21/11 states:</u> Mr. Ramirez states the Accounting was filed last Friday. Counsel sets an inspection date of July 29, 2011 for the property, personal property, house and remaining garages. Court finds Maria Martin in contempt and imposes a \$500.00 fine. Court will stay the monetary sanction and reserve further sanctions of 5 days in jail if Maria Martin complies with the 7/29/11 inspection. Also present in the Courtroom are Charles Martin and Dawn Salcedo. Matter continued to be heard with Accounting already on calendar.</p>
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2A

SUMMARY (Continued)

Respondent Maria Elena Martin's attorney Edward Ramirez, Jr., filed a Status Report on 6-8-11 that states there is no cash in the estate and no income. All expenses of the estate have been advanced by the personal representative. The major asset continues to be the residence in Dos Palos and the personal representative has kept the property up as best she could and had offered to purchase it, but Petitioners' former attorney(s) never responded to her offers. She is prepared to list the property for sale if neither of the children want it. The realtor suggests listing for \$105,000.00.

The other assets consist of old car bodies and frames that are not operable and have no motors. They are still on the property. The personal representative was hesitant to sell the cars because she thought the children wanted them. The report states that no response was received from her offers to come pick them up.

The personal representative has made efforts to sell the vehicles via the internet with no success and the report states it was quoted at \$105/vehicle to tow to an auction house with no guarantee of sale, plus the auction house flat fee of \$400.00.

The report states the account can be filed within 45 days. The pending matters are the sale of the real property and the vehicles. Attorney Ramirez requests that the petition to remove the Personal Representative be continued to allow her to file formal objections and sell the estate's assets.

Petitioners' Status Conference Statement, filed 7/15/11, states:

- **Re: Classic Cars**

- Petitioners have been able to inspect most, but not all, of the classic cars;
- At the 6/9/11 hearing, the Court ordered that Administrator Maria Elena Martin provide Petitioners access, on 24-hours' notice, to the classic cars, which are located at the estate real property in Dos Palos, CA;
- On 6/10/11, after confirming Ms. Martin's availability, Petitioners served a Notice of Intent to Inspect the cars, setting the date of inspection for 6/15/11, and also served Atty Ramirez (Ms. Martin's atty) (*Notice of Intent attached to statement*);
- On 6/15/11, Petitioners and classic car appraiser Seth Stairs, of Allied Appraisal Service, traveled to Dos Palos to inspect the cars;
- In an abundance of caution, Petitioners' counsel sought a civil standby from the Merced County Sheriff's Dept for the purpose of the inspection, however, the Sheriff's Dept responded it would need a court order; however, the Dept. agreed to respond if there were any problems at the inspection;
- At the inspection, Ms. Martin allowed Petitioners and Mr. Stairs access to a Quonset hut style garage, where many of the vehicles are stored, but she refused access to the garages adjacent to the house, in which at least one other car is stored; Petitioners therefore called the Sheriff's Dept, and a deputy arrived who agreed to look into the garages adjacent to the house to determine if other classic cars were present;
- The deputy reported back that he saw a car covered by a tarp in the garage, but that he could not compel the personal representative (Ms. Martin) to provide him access to the garage, and the deputy left the property;
- Petitioners believe the vehicle the deputy saw may be one of several cars which they know their father owned at the time of his death, but which were missing at the inspection;
- Furthermore, during the inspection and having been apprised of the situation by Petitioners, Petitioners' atty attempted to resolve the issue with Atty Ramirez but Mr. Ramirez could not be reached (*e-mails to Ramirez from Petitioners' counsel on 6/15 attached to statement*);
- Petitioners' counsel thereafter advised Petitioners to leave the property as Ms. Martin continued to refuse access, and still awaits to hear back from her regarding this issue; Petitioners believe Ms. Martin should bear the expense of this, as her refusal to allow access to the car violated the Court's order.

- **RE: Decedent's Personal Property and Petitioner Charles Martins' Personal Property**

- Ms. Martin has entered into an agreement for the sale of real property, subject to the approval of the Court; on 7/12/11, Petitioners learned that escrow is set to close in the sale of the real property for 8/15/11; said home (16237 Folsom Ave., Dos Palos) contains personal property of both Decedent's estate and Petitioner Charles D. Martin;
- Petitioners need access to the home to inspect it in order to identify the items of personal property, and given the time constraints due to the escrow period, the parties have agreed that an inspection will be scheduled prior to 8/15/11, without the need for a formal discovery request.

Petition for Letters of Administration; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

DOD:6-2-03		<p>CHARLES D. MARTIN and DAWN SALCEDO, Decedent's son and daughter, are Petitioners and request that CHARLES D. MARTIN (alone) be appointed Successor Administrator with full IAEA with bond of \$127,900.00.</p> <p>Decedent died intestate.</p> <p>Residence: Dos Palos, CA (Fresno County)</p> <p>Estimated Value of Estate: Personal property: \$ 12,900.00 Real property: \$115,000.00 Total: \$127,900.00</p>	NEEDS/PROBLEMS/COMMENTS:															
Cont. from 060911, 072111, 083111			<p><u>Page 2A is Petitioners' Petition to Remove Current Administrator, Page 2C is the First Account, and Page 2D is Petitioners' Objections to the First Account, Request for Surcharge, and Petition for Return of Estate Property.</u></p> <p><u>Continued from 8/21/11 per stipulation. Minute Order from the last hearing of 7/21/11 states: Mr. Ramirez states the Accounting was filed last Friday. Also present in the Courtroom are Charles Martin and Dawn Salcedo. Matter continued to be heard with Accounting already on calendar.</u></p> <p>1. There is currently no vacancy. (Note: Page 2A is Petitioners' Petition to Remove Personal Representative)</p> <p>Notes:</p> <p>a. The current Administrator's 2003 Petition estimated the value of the estate as follows:</p> <table> <tr> <td>Personal Property:\$</td> <td>20,000.00</td> </tr> <tr> <td>Real Property: \$</td> <td>100,000.00</td> </tr> <tr> <td>Total: \$</td> <td>120,000.00</td> </tr> </table> <p><i>(The current administrator was appointed with Limited IAEA with bond of \$206,000.00.)</i></p> <p>b. Petitioners' 2003 Objection and competing petition stated that Decedent was engaged in the business of restoring antique automobiles and equipment and estimated the value of the estate as follows:</p> <table> <tr> <td>Personal Property:\$</td> <td>200,000.00</td> </tr> <tr> <td>Income: \$</td> <td>6,000.00</td> </tr> <tr> <td>Real Property: \$</td> <td>250,000.00</td> </tr> <tr> <td>Total: \$</td> <td>456,000.00</td> </tr> </table> <p><i>(Petitioners' instant petition indicates a more similar value to the estimate originally provided by the current Administrator. Need clarification.)</i></p> <p>c. A Partial Inventory & Appraisal filed 5-24-04 indicated the value of decedent's real property (separate property) as of the date of death at \$125,000.00, and the values of 14 vehicles (some separate, some community property) at \$12,900.00.</p> <p>d. No Final Inventory & Appraisal has been filed.</p>		Personal Property:\$	20,000.00	Real Property: \$	100,000.00	Total: \$	120,000.00	Personal Property:\$	200,000.00	Income: \$	6,000.00	Real Property: \$	250,000.00	Total: \$	456,000.00
Personal Property:\$	20,000.00																	
Real Property: \$	100,000.00																	
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		Updates:																
		Recommendation:																
		File 2B - Martin																

First Account of Administrator per Court Order of June 9, 2011

DOD: 6/2/03		<p>MARIA E. MARTIN, surviving spouse and Administrator, is Petitioner.</p> <p><u>Account Period: (?)</u></p> <p>Accounting: \$190,408.75 Beginning POH: \$137,900.00 Ending POH: \$137,900.00 (<i>no cash</i>)</p> <p>Petitioner states:</p> <ul style="list-style-type: none"> The Estate consists of a single family home and 14 car frames and parts; The Estate's single family home in Dos Palos has been sold for \$95,000.00 and is currently in escrow (estate will reflect a loss of \$30,000 once the current sale is completed); Petitioner has paid \$52,508.75 of her personal funds for expenses and costs of administration to the estate (<i>reflected as "Other Charges/Other Credits" on Schedule 3</i>); Petitioner filed a creditor's claim against the estate on 7/15/04 for work that she performed working with Decedent as a laborer and for which she never received payment (<i>claim was for \$112,320.00</i>); On 5/5/04, Petitioner filed an I&A showing date of death value of the residence as \$125,000.00 and the value for the car frames and parts as \$12,900.00; on 9/11/08, Petitioner filed an I&A showing a reappraisal value for the residence as \$115,000.00; The estate consists of a mix of Decedent's separate property, and community property; The following are Decedent's heirs under intestate succession and the distributive shares for each: <ul style="list-style-type: none"> Maria E. Martin: 33 and 1/3 % of estate Charles D. Martin: 33 and 1/3% of estate Dawn Salcedo: 33 and 1/3% of estate Petitioner requests a Court order approving and confirming all acts and proceedings of Petitioner as Administrator. 	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Page 2D is Petitioners' Objections to the First Account, Request for Surcharge, and Petition for Return of Estate Property.</u></p> <ol style="list-style-type: none"> 1st Account does not indicate the Account Period; need clarification. 2. Need Final Inventory & Appraisal 3. Need Order. <p><u>Notes:</u></p> <ul style="list-style-type: none"> 1st Account indicates that Estate Property consists of both community and separate property, yet proposes distribution of the estate as 33 and 1/3% of the estate each to surviving spouse (Petitioner), Charles Duane Martin (son), and Dawn Salcedo (daughter). Per intestate laws of succession (PrC §6400 et seq.), Petitioner's proposed distribution is only proper after Petitioner has received ½ of the community property (<u>Note however, this is not a Petition for Final Distribution</u>). Petitioners' Status Conference Statement, filed 9/21/11, states that Respondent Martin indicates in her Account that the residence would be sold for \$95,000.00; however, the home is still not sold, as (per Respondent's realtor) the buyer has not qualified for a loan and the realtor was still waiting on an appraisal to provide the lender. Respondent's Status Conference Statement, filed 9/27/11, states the buyer has now been approved, and the delay on the sale was the buyer qualifying for a loan and as the home needed some termite repair; Respondent has not intentionally violated any court order and continues to cooperate with the realtor to facilitate the closure of the escrow. 	
Cont. from 083111				
	Aff.Sub.Wit.			
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	Inventory			X
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2D
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Charles George Martin (Estate)

Ramirez, Edward R., Jr. (of Clovis, for Maria Elena Martin/Spouse/Administrator/Respondent)

Ramseyer, Ryan A. (of San Jose, for Charles D. Martin and Dawn Salcedo - Petitioners)

Case No. 03CEPR01109

**Objections to First Account of Administrator per Court Order of June 9, 2011,
Request for Surcharge, and Petition for Return of Estate Property (Prob. C. 9600, et
seq., 11001)**

DOD: 6/2/03		<p>CHARLES D. MARTIN and DAWN SALCEDO, Decedent's son and daughter, are Petitioners.</p> <p>Petitioners state:</p> <ol style="list-style-type: none">Respondent's <i>Account</i> reports on activity from Decedent's date of death until June 2011 (a period of 7 years);Respondent Maria Martin has failed to make the estate's real property (3-bedroom, 2-bathroom home located in Dos Palos, CA ("the Real Property")), and the estate's primary asset) productive; Respondent failed to obtain rents from the Real Property and allowed it to fall into a progressively more dilapidated condition; Respondent instead used the Real Property as her personal residence; Respondent should therefore be surcharged for the reasonable rental value of the home during that time; as such, Respondent has breached her fiduciary duty to the Estate, amounting to an act of moral turpitude;Respondent only took steps to market the Real Property for sale after Petitioners filed their <i>Petition to Remove Personal Representative, and for Accounting</i>," (filed 4/28/11);Furthermore, Petitioners are informed and believe that Respondent has intentionally misappropriated significant personal property from the Estate, and intentionally failed to identify such property on the <i>I&A</i> which she filed with the Court - acts amounting to fraud and defalcation;Respondent now seeks reimbursement from the Estate for her living expenses for the last 8 years (PG&E and water bills, totaling \$15,072.00);Finally, Respondent has filed a creditor's claim with the Estate, however this claim must be denied pursuant to PrC §9253 as it is barred by the 1-year statute of limitations (CCP §366.2) <p>A. Objections to First Account:</p> <ol style="list-style-type: none"><u>Failure to Make Trust Property Productive and Request for Surcharge</u> *Respondent as personal representative is chargeable with acts of mismanagement, including occupying estate property without attempting to rent it – in violation of her fiduciary duty (per PrC §§9601 et seq. and cited case law) *Respondent's use of the Real Property without paying or collecting rent constitutes a conflict of interest in breach of said fiduciary duty (PrC § 9601); *The reasonable rental rate for the Real Property has been \$800/mo for the entire period since Respondent was appointed Administrator – a period of 89 months - and a total of \$71,200.00 in lost rent; furthermore, the legal rate of interest should apply pursuant to PrC §9602 and CCP §685.010. <p style="text-align: center;"><u>SEE ATTACHED PAGE</u></p>	
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	Citation		
	FTB Notice		

NEEDS/PROBLEMS/COMMENTS: <u>Page 2C is Respondent's First Account</u> 1. Need Order. <i>Note: On 9/26/11, this Court granted Petitioners' ex parte petition ordering Respondent's 2005 quit claim deed void and suspending Petitioner's status as administrator pending the 9/29 hearing.</i>
Reviewed by: NRN
Reviewed on: 9/23/11
Updates: 9/28/11
Recommendation: File 2D - Martin

2D

Objections to First Account Cont'd:**2. Objection to Payment of Personal Expenses from Estate**

- As stated, Respondent's *Account* includes her own living expenses (PG&E bills totaling \$9,744.00 and City of Dos Palos water bill totaling \$5,328.00 for a total of \$15,072.00), for which she seeks Estate reimbursement;
- Payment of a fiduciary's own personal expenses from a trust estate have been characterized as a breach of fiduciary duty rising to the level of moral turpitude (per cited case law), yet Respondent seeks to have this Court sanction her breach of said duty.

3. Objection to Expenses Accrued by Undue Delay

- Respondent indicates the Estate consists of the Real Property and a number of classic cars; these assets should have been sold and/or distributed and a petition for final distribution heard and concluded by 3/18/06; rather, Respondent did nothing to market the Real Property for sale until Petitioners filed their *Petition to Remove* her;
- The Estate expenses, whether or not they are of the type normally allowed, are therefore simply unjustifiable beyond 3/18/06, and accordingly, Petitioners object to each of the claimed expenses beyond that date (note: to the extent the Court imposes a surcharge for the rental values, these expenses could be considered reasonable carrying costs appurtenant to the rental income);

4. Objection to Creditor's Claim

- In her *Account*, Respondent references the creditor's claim she filed on 7/15/04; however, there has been no report of any action taken on said claim pursuant to PrC §10900(a)(2);
- Furthermore, as Respondent filed the claim on 7/10/04 and more than one year after Decedent's death, it is barred by the 1-year statute of limitations (per PrC §9253, a claim barred by the statute of limitations may not be allowed by personal representative or approved by the court or judge);

B. Request for Surcharge:

- A personal representative may be surcharged for acts of misconduct, neglect, waste, mismanagement or other breach of fiduciary duty; said grounds fall under the general category of "all matters relating to an account," which may be contested "for cause shown." (per PrC §11001, 9601; cited case law); although Petitioners believe items of the Estate are missing, the property which Respondent acknowledges have been substantially devalued due to the Administrator's neglect;
- Respondent has failed to safeguard and competently store the classic cars acknowledged in the *I&A*; the cars have been negligently damaged and devalued, as they have been left outside without having been stored in a garage or otherwise covered, and have had valuable parts looted from them;
- Respondent's neglect for the Estate assets has caused a detriment to the Estate in an amount to be proven at trial.

C. Loss of Estate Property and Petition for Return of Estate Property:

- Decedent owned a 2001 Dodge Ram Pickup Truck ("Dodge Truck");
- In May 2003, Respondent Martin filed an *I&A* intentionally omitting the Dodge Truck;
- Approximately 2 years after Decedent's death in 2005, Respondent caused title to the Dodge Truck to be transferred from Decedent to herself in violation of her duty to the Estate;
- Respondent has had use of the Dodge Truck since 6/2/03 (date of Decedent's death);
- Estate has been damaged in the amount of the loss of the use of the Dodge Truck from the date of Respondent's appointment as Administrator on 3/18/04, as well as the interest on this amount, as well as the present value of the Dodge Truck;
- Finally, other Estate property is missing, including Decedent's fully restored an drivable 1930 Ford Model "A" automobile, 1947 Coupe, and 1954 Red and White Packard automobile, and valuable tools; Petitioners believe Respondent also intentionally took and/or spent, or otherwise misused other Estate property, to the detriment of the Estate in an amount to be proven at trial.

D. Request for Supporting Documentation: Petitioners request all documentation supporting the expenses that Respondent claims in the Accounting at pp 9-12 (*totaling \$58,508.75 and consisting of property taxes, bond fees, homeowners' premiums, funeral expenses, home repairs, water and PG&E bills, etc.*)**E. Request for Attorney Fees and Costs:**

- If Respondent challenges Petitioners' objections without reasonable cause or in bad faith, Petitioners request attorney's fees pursuant to PrC §11003(b), or alternatively, pursuant to the common fund doctrine (See *In re Reade's Estate (1948) 31 Cal. 2d 669,672* [allowance of attorney's fees from an estate benefitted by contesting administration funds creates a common fund, and awarding attorney's fees from the estate is therefore just]);
- On 6/9/11, this Court issued an order directing Respondent Martin to submit to an inspection of the classic cars by Petitioners and their appraiser on 24 hours' notice;

- On 6/15/11, Respondent failed to comply with the Court's order, leading to the Court's finding of contempt as to Respondent on 7/21/11. On 7/29/11, the inspection was completed, but at the added cost to Petitioners of having their appraiser once against travel to the site to complete his inspection. Based upon the Court's adjudication of contempt as to the Administrator, Petitioners request the Court award the cost of the Appraiser's 2nd trip to the site, necessitated by Respondent's contempt of the 6/9/11 order.

Petitioners therefore request:

1. That Respondent Martin's request for confirmation and approval of her acts as Administrator be denied;
2. That Respondent's creditor's claims be deemed denied pursuant to PrC §9253;
3. That Respondent be surcharged in an amount according to proof;
4. That Respondent be ordered to produce the documentation as requested pursuant to PrC §10901;
5. The return of Trust property pursuant to PrC §850 and for statutory damages pursuant to PrC §859;
6. A finding by the Court that Respondent's misappropriation and misuse of Estate property constitutes fraud and defalcation;
7. Costs and attorney's fees payable pursuant to PrC §11003 (b) and/or pursuant to the common fund doctrine, pursuant to the Court's finding of contempt or otherwise;

***Note:** Petitioners' *Status Conference Statement*, filed 9/21/11, states that Respondent Martin indicates in her Account that the residence would be sold for \$95,000.00; however, the home is still not sold, as (per Respondent's realtor) the buyer has not qualified for a loan and the realtor was still waiting on an appraisal to provide the lender. Petitioners request the Court immediately remove Respondent as Administrator for her failure to competently administer the estate and for her contempt of Court orders (Petitioners state per Court order of 6/9/11, Respondent was to list the residence for sale, to which she agreed, and the Court was clear with Respondent that if she did not comply with said orders, she would be removed). Respondent's *Status Conference Statement*, filed 9/27/11, states the buyer has now been approved, and the delay on the sale was the buyer qualifying for a loan and as the home needed some termite repair; Respondent has not intentionally violated any court order and continues to cooperate with the realtor to facilitate the closure of the escrow.

Respondent's Reply to Petitioners' Objections, filed 9/27/11, states:

- Respondent admits living in the residence continuously from Decedent's death and never filed a request for a formal probate homestead, but denies allowing the property to fall into a dilapidated condition – it is an older home with regular wear and tear;
- Respondent did not intentionally misappropriate assets or fail to report estate assets; she did fail to report the Dodge Truck in the I&A – which was more of an oversight by Respondent's counsel;
- During the administration, Respondent made several offers to purchase the Real Property directly from Petitioners, who never responded, and as such should be stopped from seeking back rents on the Real Property; Respondent also offered Petitioners the vehicles – but Petitioners never sought to retrieve them or contribute to the vehicles' upkeep; finally, Respondent continued to pay the taxes on the Real Property and homeowner's insurance and should receive credit for said payments such that they be approved;
- Respondent believes a more reasonable value of rent is \$500-\$600/mo for years 2004-2007 and \$600-\$700 for years 2008-2011;
- Respondent denies taking the 1930 Ford Model A, 1947 Coupe, and 1954 Packard, as well as Decedent's tools: in fact it was Petitioner Charles Martin who broke into the house after Decedent's death and took the tool; further, Respondent is not clear as to what Petitioners are talking about in reference to the 1930 Ford or 1947 Coupe, and Respondent is only aware of a Red & White Buick (as opposed to a 1954 Packard); and finally, it was Petitioner who took other vehicles from the estate, namely a late 1980's Porsche and a 1990's car called a Lelhan Orange;
- Respondent admits to having the Dodge Truck and apologizes for not including it the I&A; it was a gift from Decedent to Respondent and was community property --- **a new amended I&A will be filed shortly;**
- Respondent will provide the requested documentation for her expenses, which Respondent believes should be approved until the estate is closed;**
- Respondent should not be surcharged since Petitioners' conduct constitutes a waiver.**

Petition for Approval of Attorney Fees and Reimbursement of Costs Advanced by Attorneys (Probate Code 2640)

Age: 13 years DOB: 6/16/1998		VALERIE PIERCE, Guardian, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Petitioner requests payment of attorney fees for her attorney for their efforts to protect the interests of the minor relating to the Estate of James Gardner Jr. father of James Gardner III.	1. Costs include \$1,074.50 paid to Eddings Attorney Support Service. Local Rule 7.17B states runner services are considered by the court to be a part of the cost of doing business, and are not reimbursable.
Cont. from		Petitioner states James Gardner, Jr. died intestate leaving two minor children as the beneficiaries of his \$2 million+ estate.	
	Aff.Sub.Wit.		
✓	Verified	During the course of the probate the attorneys engaged in a variety of activities to protect the interest of the minor. The major effort has been in relation to the estate proceeding. The primary emphasis in the estate proceeding was the defense of a petition by Adria Underwood (the minor's grandmother) where she claimed about \$2 of the estate belonged to her and her daughter on an oral trust theory. The Attorney demurred on behalf of the minor. Judge Kazanjian sustained the demurrer, without leave to amend. Adria Underwood appealed and the Attorney opposed the appeal on the minor's behalf. The Court of Appeal overturned the decision. The parties eventually settled the case at mediation.	
	Inventory		
	PTC	The attorney requests fees totaling \$59,004.30 and costs of \$5,390.17 .	
	Not.Cred.		
✓	Notice of Hrg	Petitioner prays for an Order:	
✓	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

Reviewed by: KT

Reviewed on: 9/23/11

Updates:

Recommendation:

File 3 – Gardner III

Fourth Amended First Account Current and Report of Conservator and Petition for Its Settlement

Age: 80 years DOB: 1/12/1931		DORIS BECKETT, spouse/Conservator, is petitioner.		NEEDS/PROBLEMS/COMMENTS:	
		Account period: 11/13/07 – 12/31/09		<ol style="list-style-type: none"> Need Fifth Amended Accounting. The disbursement schedule does not list the entries in chronological order and appears to include duplicate entries for the same items (i.e. entry for 11/29/07 appears on page 1 and again on page 2). There are duplicate pages (page 3 and page 16 are the same and page 19 and page 21 are the same). Examiner is unable to review the disbursement schedule the way it has been presented. Disbursement schedule does not include any bond premium payments. Need clarification. Need care facility statements pursuant to Probate Code §2620(c)(5). Account statements indicate that the accounts are not in the name of the conservatorship estate but are in the names of either Doris Beckett individually or Doris Beckett and George Beckett. Assets of the conservatorship should be titled in the name of the conservatorship. Probate Code §1063 (g) states if at the end of the accounting there are liabilities of the estate or future periodic payments there shall be a schedule showing the liability. If the car is owned by the conservator and not the conservatee why is the conservatorship paying the expenses for insurance and gas on the car? 	
		Accounting \$77,791.60			
		Beginning POH \$22,004.96			
		Ending POH \$ 3,957.65			
Cont. from		Current bond \$24,500.00			
	Aff.Sub.Wit.	Conservator - waives			
✓	Verified	Attorney - not addressed			
✓	Inventory				
	PTC				
	Not.Cred.				
✓	Notice of Hrg				
✓	Aff.Mail	W/			
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.				
	Conf. Screen				
	Letters				
	Duties/Supp				
	Objections				
	Video Receipt				
	CI Report				
✓	2620(c)				
	Order	X			
	Aff. Posting			Reviewed by: KT	
	Status Rpt			Reviewed on: 9/22/11	
	UCCJEA			Updates:	
	Citation			Recommendation:	
	FTB Notice			File 4 - Beckett	

Declaration of Doris Beckett states all of the assets of her husband are contained in accounts that are held jointly between her husband and herself. Mrs. Beckett states she inadvertently failed to keep sufficient records involving these accounts. Mrs. Beckett states that “GE Bill Pay” predates the conservatorship for a dental debt of hers that she makes payments. “Wells Fargo” relates to a prior loan for which she makes payments. “State Farm” related to her car insurance for a car that is in her name only and pre-dates her appointment.

Additional NEEDS/PROBLEMS/COMMENTS:

7. Need order

Probate Status Hearing Re: Failure to File a First Account or Petition for Final Distribution (Prob. C. 12200, et seq); Failure to File Inventory and Appraisal

DOD: 7/2/08		<p>STEVEN GAUCIN, son, was appointed Administrator of the Estate with full IAEA on 9/16/08. <u>Letters do not appear to have ever issued.</u></p> <p><i>Clerk's Certificate of Mailing</i> shows a <i>Notice of Status Hearing</i> indicating this hearing date was mailed to Steven Gaucin on 8/24/11.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. <u>Need Letters, Final I&A, First Account or Petition for Final Distribution, or Status Report.</u></p> <p><u>Notes:</u></p> <ul style="list-style-type: none"> Mr. Gaucin (Administrator) was represented by Attorney Susan Arthur on the original <i>Petition for Probate</i>. A <i>Substitution of Attorney</i> was filed 2/6/09 indicating Mr. Gaucin's self-representation. Letters of Administration were never issued despite the Court's appointment of Administrator on 9/16/08.
Cont. from			
Aff.Sub.Wit.			
Verified			
Inventory	x		
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters	x		
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt	x		
UCCJEA			
Citation			
FTB Notice			
		Reviewed by: NRN	
		Reviewed on: 9/22/11	
		Updates:	
		Recommendation:	
		File 5 - Gaucin	

Atty Panzak, Gordon G. (Self-represented/son - Petitioner)

Atty Shekoyan, James E.; Paloutzian, Dirk; Woo, Andrew; of Baker Manock & Jensen (for Respondents John R. Panzack, Jr., Executor/Trustee; Sharon Panzak; Andrea Clifft; and John Robert Panzak, III)

Petitioner's First Amended Petition

DOD: 3/12/2010	GORDON G. PANZAK, son, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		<u>Note: Court's Order on Respondents' Demurrer to the original Petition was filed 7/27/11.</u>
Cont. from	The <i>First Amended Petition</i> states:	1. No relief is requested in the instant <i>Amended Petition</i> and there is no proposed order; Court may require clarification.
Aff.Sub.Wit.	1) The acknowledgement of the execution of the John Robert Panzak Trust ("Trust") on page 5 (lines 2-3) of Petitioner's original <i>Petition by Claimant to Determine Ownership of Real Property and for Imposition of a Constructive Trust</i> does not admit, nor was it intended to admit, receipt of a copy of the Trust or notice by the Trustee (John R. Panzak, Jr.) of the existence of a trust, as required by PrC 16061.8. As recently as June 2011, a copy of the Trust finally delivered by the Trustee to Petitioner is missing "attachment A," which would show if the Trust was ever validly funded and if the Santa Cruz property was ever part of the Trust.	
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: NRN
		Reviewed on: 9/22/11
		Updates:
		Recommendation:
		File 6 - Panzak

Atty Magness, Marcus D. (for Julie Fulcher – Administrator – Petitioner)

Evidentiary Hearing Re: Petition to Establish Estate's Claim of Ownership of Vehicle, for Order Directing Transfer of Vehicle to the Estate of Brian Fulcher and for Order of Damages

DOD: 2-20-11		JULIE FULCHER , Administrator, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>OFF CALENDAR.</u> Dismissal filed on 9/28/11 <u>Minute Order 8-18-11:</u> Counsel advises the Court that they have the vehicle. Counsel requests an evidentiary hearing. Matter set on 9-29-11.
Cont. from 081811			
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail	W	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

Petitioner states Decedent's two children are the sole heirs to his estate. Sheri Grote, Decedent's live-in girlfriend, will not inherit any portion of the estate.

Ms. Grote claims title to Decedent's Mercedes was properly transferred to her prior to Decedent's death. California DMV title documents allegedly show that Decedent transferred ownership of the Mercedes to Ms. Grote a few days before his death.

However, a forensic document examiner determined the signatures of the Decedent on the DMV documents to be forgeries (CV, report and documentation provided).

Probate Code §850 provides that a personal representative may petition the court for a turnover order when the Decedent died having a claim to real or personal property, "title or possession of which is held by another." Petitioner cites *Estate of Kraus* (2010) 184 Cal. App. 4th 103, 110-19 for broad construction, equitable powers and discretion of the court.

Probate Code §859 provides that if a court finds that a person has in bad faith wrongfully taken, concealed, or disposed of property belonging to the estate of a decedent, the person **shall** be liable for twice the value of the property recovered by action under this part.

Therefore, the Certificate of Title must be deemed invalid. The Mercedes belongs to the estate. Ms. Grote committed forgery to take and retain possession of the Mercedes and should be ordered to convey title to and possession of the Mercedes to Petitioner.

Petitioner requests court determination that the title documents are invalid and that Decedent is the true owner of the Mercedes.

Petitioner further requests the court direct Ms. Grote to pay damages worth two times the amount of the Mercedes as set forth in the Inventory and Appraisal to be filed herein.

Petition for Letters of Administration; Authorization to Administer Under IAEA
(Prob. C. 8002, 10450)

DOD: 7/1/11		<p>DENNIS MAXWELL is petitioner and requests appointment as Administrator with bond set at \$11,660,000.00.</p> <p>Dennis Maxwell was appointed Special Administrator ex parte on 7/21/11. Letters of Special Administration expire on 9/29/11.</p> <p>Beneficiaries Mark Coit and Mitchell Coit nominate petitioner.</p> <p>Full IAEA – o.k.</p> <p>Decedent died intestate.</p> <p>Residence: Mendota Publication: Fresno Business Journal</p> <p><u>Estimated value of the estate:</u></p> <table> <tr> <td>Personal property</td> <td>-</td> <td>\$ 10,000.00</td> </tr> <tr> <td>Annual income</td> <td>-</td> <td>\$ 1,160,000.00</td> </tr> <tr> <td>Real property</td> <td>-</td> <td>\$ 8,450,000.00</td> </tr> <tr> <td>Total</td> <td>-</td> <td>\$11,660,000.00</td> </tr> </table> <p>Probate Referee: Rick Smith</p>	Personal property	-	\$ 10,000.00	Annual income	-	\$ 1,160,000.00	Real property	-	\$ 8,450,000.00	Total	-	\$11,660,000.00	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>An Amended Petition has been filed and is set for hearing on 10/20/11.</p>
Personal property	-		\$ 10,000.00												
Annual income	-		\$ 1,160,000.00												
Real property	-		\$ 8,450,000.00												
Total	-		\$11,660,000.00												
Cont. from 082511															
<input type="checkbox"/>	Aff.Sub.Wit.														
<input checked="" type="checkbox"/>	Verified														
<input type="checkbox"/>	Inventory														
<input type="checkbox"/>	PTC														
<input type="checkbox"/>	Not.Cred.														
<input type="checkbox"/>	Notice of Hrg														
<input checked="" type="checkbox"/>	Aff.Mail		W/												
<input checked="" type="checkbox"/>	Aff.Pub.														
<input type="checkbox"/>	Sp.Ntc.														
<input type="checkbox"/>	Pers.Serv.														
<input type="checkbox"/>	Conf. Screen														
<input checked="" type="checkbox"/>	Letters														
<input checked="" type="checkbox"/>	Duties/Supp														
<input type="checkbox"/>	Objections														
<input type="checkbox"/>	Video Receipt														
<input type="checkbox"/>	CI Report														
<input type="checkbox"/>	9202														
<input checked="" type="checkbox"/>	Order														
<input type="checkbox"/>	Aff. Posting														
<input type="checkbox"/>	Status Rpt														
<input type="checkbox"/>	UCCJEA														
<input type="checkbox"/>	Citation														
<input type="checkbox"/>	FTB Notice														

Reviewed by: KT
Reviewed on: 9/22/11
Updates:
Recommendation:
File 8 - Coit

Atty LeVan, Nancy J. (for Demetria Mijangos – daughter/Petitioner)

ProPer Villareal, Monica (pro per – Petitioner/objector)

Atty Kruther, Heather (for Public Administrator – Administrator)

**Petition for Probate of Will and for Letters of Administration with Will Annexed;
Authorization to Administer Under IAEA (Prob. C. 8002, 10450)**

DOD: 05/11/11		<p>DEMETRIA MIJANGOS, daughter, is Petitioner, and requests appointment as Administrator with Will Annexed with bond set at \$15,000.00.</p> <p>Full IAEA – ok</p> <p>Will dated: 11/06/08</p> <p>Residence: Fresno Publication: The Business Journal</p> <p>Estimated Value of the Estate: Personal property - \$ 500.00 Real property - 13,000.00 Total - \$13,500.00</p> <p>Probate Referee: STEVEN DIEBERT</p> <p>BACKGROUND Monica Villareal, decedent's daughter, objected to the Petition for Probate filed by Demetria Mijangos and alleges that Ms. Mijangos and her husband fraudulently induced the decedent to create a joint tenancy with them on the decedent's estate. Ms. Villareal indicates that the joint tenancy was later revoked by the decedent and that the decedent's Will dated 11/06/08 leaves the entire estate to Ms. Villareal. Ms. Villareal further states that Ms. Mijangos is trying to force her to move from the residence. Ms. Mijangos denies the allegations.</p> <p>At the 08/30/11 hearing, the Court appointed the Public Administrator as Administrator of the Estate but did not admit the Will dated 11/06/08.</p> <p>Petition to Revoke Probate of Will and For Instructions to Public Administrator filed 09/16/11 by Monical Villareal states that at the hearing on 08/30/11 another daughter of the decedent, Ruth Reyes, presented a holographic Will of the decedent dated 02/09/09 that leaves the entire estate to Ruth Reyes. Also presented was a handwritten note by the decedent declaring that the deed she signed giving joint tenancy to Demetria and Jose Mijangos was a product of fraud and undue influence. The note further completely disinherits the Mijangos. Ms. Villareal states that the Court would not accept these documents during the 08/30/11 hearing, but states that these documents should be accepted by the Court as the decedent's last Will. Further, Ms. Villareal requests the Court to direct the Public Administrator to act on these two holographic documents.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>CONTINUED FROM 08/30/11</u> Minute Order from 08/30/11 states: The Court appoints the Public Administrator as administrator of the estate. The Public Administrator is authorized to obtain copies of the court file. The Court orders that Monica Villareal allow access to the property as necessary.</p> <p><u>Note:</u> Monica Villareal has filed a Petition to Determine Succession (Case No. 11CEPR00686), which was continued to 09/29/11 – SEE PAGE 19</p>	
Cont. from 083011				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail			w/
<input checked="" type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input checked="" type="checkbox"/>	Letters			
<input checked="" type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			

DOD: 06/03/11		DORA VISSER , surviving spouse, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		No other proceedings.	
Cont. from		Will dated 05/30/11 devises personal residence, household and personal effects, automobiles, and residue of the estate after specific bequests to spouse. Specific bequests as follows: Urban Visser - \$7,000.00; Neronca Cheng - \$7,000.00; Ed Visser - \$5.00; and Brenin Visser - \$5.00.	
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified	Petitioner states that she was married to the decedent on July 16, 2005. Decedent executed a California Statutory Will on 05/30/11 specifically gifting his personal residence to his surviving spouse. The real property seeking to be passed with this Petition was held in the decedent's name as "Christian Visser". No legal proceedings were ever instituted to terminate the marriage and the parties never separated.	
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC	Petitioner requests Court confirmation that real property located at 2409 E. Alamos, Fresno passes to her.	
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

Reviewed by: JF

Reviewed on: 09/22/11

Updates:

Recommendation: SUBMITTED

File 10 - Visser

Atty Pimentel, Paul J. (for Jesus Soto, a conserved adult, by his Conservator, Clara Soto – Petitioner)

Petition for Order Establishing Special Needs Trust [Prob. C. 3600-3613;
Cal Rules of Cr 7.903 (c)]

Age: 20		JESUS SOTO , a conserved adult, by his Conservator, CLARA SOTO , is Petitioner. Mr. Soto is disabled and receives needs-based public benefits including SSI and Medi-Cal. He lives with his parents and his mother, Clara Soto, is his Conservator.	NEEDS/PROBLEMS/COMMENTS: 1. Petitioner requests appointment without bond or bond in the amount of \$40,000.00. If bond is waived, the court may require deposit to a blocked account. If required, Examiner calculates that bond, including cost of recovery per Probate Code §2320(c)(4), should be \$41,916.75. 2. The Trust allows distributions in the Trustee's "sole and absolute discretion." The Court may require clarification between <i>disbursements</i> for special needs, which may be made in the Trustee's good faith discretion without court approval, and <i>distributions</i>, which may require court approval. (This language would ensure that certain items purchased, such as equipment or a vehicle, would be assets of the trust, rather than "distributions.") 3. Petitioner requests accountings be required every two years after the first account; however, the Court may require language per Probate Code §2620(a): "unless otherwise ordered by the Court to be more frequent." 4. Need revised order per #2 above and Local Rule 7.6.1. (The trust document should be attached and the signature line should appear last.)
DOB: 4-8-1991			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Mr. Soto will receive approx. \$36,996.25 from a personal injury settlement. Outright distribution of the settlement would eliminate Mr. Soto's eligibility for SSI and Medi-Cal. Therefore, Petitioner seeks to establish a "safe harbor" or Special Needs Trust under Probate Code §3602- 3613, and an order that Petitioner, through his guardian ad litem Clara Soto, is authorized to sign the proposed Special Needs Trust as grantor.			
✓ Notice of Hrg		Petitioner prays for the following findings and order: 1. That all notices have been given as required by law; 2. That the Court establish the Special Needs Trust, the Petitioner is directed to execute it, and the court has continuing jurisdiction over the Special Needs Trust; 3. That Clara Soto shall serve as initial Trustee without bond, or bond of \$40,000.00; 4. That Petitioner has a disability that substantially impairs his ability to provide for his own care or custody, and constitutes a substantial handicap; 5. That Petitioner is likely to have special needs that will not be met without the trust; 6. That money paid to the trust does not exceed the amount that appears reasonably necessary to meet Petitioner's special needs; 7. That payment of all monies due plaintiff in the lawsuit referenced above shall be paid to the Trustee of the Special Needs Trust after payment of the personal injury Medi-Cal lien; 8. That any proceeds of the settlement received by plaintiff's attorney before the hearing of this petition and deposited into attorney's attorney/client trust account shall not be considered received by Jesus Soto for public benefit eligibility purposes; 9. That the assets of the trust are unavailable to the beneficiary and shall not constitute a resource for eligibility purposes for Medi-Cal, SSI, regional center assistance, or any other program of public benefits; 10. That the Trustee provided the Court with a biennial account and report beginning one year after the date the Court approves the establishment of the trust and every two years thereafter; and 11. Such other and further orders as the Court may deem just and proper.	
✓ Aff.Mail	W		
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
✓ Order			
Aff. Posting		Reviewed by: skc Reviewed on: 9-23-11 Updates: Recommendation: File 11 - Soto	
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

Age: 3	MARIO GARZA, father, was appointed Guardian of the Estate and Letters were issued on 07/30/10.	NEEDS/PROBLEMS/COMMENTS:
DOB: 07/31/08		
Cont. from	Amended Receipt and Acknowledgement of Order for the Deposit of Money into a Blocked Account was filed 07/15/10 reflecting \$78,392.07 as having been placed into a blocked account at Bank of America.	<p align="center"><u>OFF CALENDAR</u></p> <p>First Account filed 09/28/11 and set for hearing on 11/14/11</p>
Aff.Sub.Wit.		
Verified		
✓ Inventory		
PTC	Inventory & Appraisal filed 11/23/10 in the amount of \$78,392.07.	
Not.Cred.		
Notice of Hrg	Notice of Status Hearing filed 08/23/11 set this matter for a status hearing regarding filing of the first account.	
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: JF
		Reviewed on: 09/22/11
		Updates:
		Recommendation:
		File 13 – Garza

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Nathan, 2 DOB: 01/08/09		<u>TEMPORARY EXPIRES 09/29/11</u>		NEEDS/PROBLEMS/COMMENTS:	
Gavin, 4 DOB: 06/24/07		SANDI ESTES and JEFF ESTES , maternal grandparents are Petitioners.		<u>THIS PETITION PERTAINS TO NATHAN ONLY</u>	
		Petitioners were appointed Guardians of Gavin Lopez on 10/30/08.		1. Need proof of service by mail at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian or Consent and Waiver of Notice or Declaration of Due Diligence</i> for: - Paternal grandparents	
Cont. from		Father: (UNKNOWN) – JOSHUA LOPEZ (who has held himself out to be the father) - <i>personally served 08/06/11</i>			
	Aff.Sub.Wit.				
✓	Verified				
	Inventory				
	PTC				
	Not.Cred.				
✓	Notice of Hrg				
	Aff.Mail		x		
	Aff.Pub.				
	Sp.Ntc.				
✓	Pers.Serv.				
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				
		Mother: AMBER ESTES – <i>consent and waiver of notice filed 07/29/11</i>			
		Paternal grandparents: NOT LISTED			
		Petitioners state that the mother's ex-boyfriend, Joshua Lopez, has had physical custody of the minor in the past, but it is not believed that he is the minors biological father (paternity has not been established). Mr. Lopez has taken the minor to manipulate the mother after she ended an abusive relationship with him. Mother consents to the guardianship and states that Joshua Lopez has threatened to kill her, her family, and the minor. Mother has a restraining order against Mr. Lopez and he was recently arrested for assaulting her. Petitioners state that Joshua has taken the minor and disappeared for months at a time. Petitioners state that Joshua's family lies about his whereabouts and to the courts.			
		Objection to Guardianship filed 08/08/11 by Joshua Lopez states that he has sole legal and physical custody of Nathan and that the allegations against him were just allegations on the part of Amber Estes and that they are not true. He states that since CPS has got involved he has done everything CPS has asked of him. He also states that he has been attending outpatient drug classes, AA/NA meetings and is randomly drug tested. He states that he has never done any of the things stated in the petition. He states that if any of the things in the petition were true, CPS would not have placed Nathan back in his care.			
		Court Investigator Dina Calvillo's report was filed 09/21/11.			
				Reviewed by: JF	
				Reviewed on: 09/22/11	
				Updates:	
				Recommendation:	
				File 14 - Lopez	

Petition for Probate of Will and for Letters of Administration; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

DOD: 04/21/10	MICHAEL MURPHY , son, is	NEEDS/PROBLEMS/COMMENTS:
	Petitioner and requests appointment as Administrator.	
		<u>CONTINUED FROM 08/11/11</u>
		Minute Order dated 08/11/11 states: Examiner notes are provided to the Petitioner. The Petitioner is directed to cure the defects.
Cont. from 050411, 070611, 081111	Full IAEA – NEED	As of 09/22/11, the following issues remain outstanding:
<input type="checkbox"/> Aff.Sub.Wit.	Decedent died intestate	<ol style="list-style-type: none"> 1. Need <i>Notice of Petition to Administer Estate</i> and proof of mail service at least 15 days before the hearing to all persons named in Item 8 of the <i>Petition for Probate</i>. 2. Need Publication. 3. Petition does not indicate the name of the person Petitioner is requesting be appointed as Administrator. 4. Petition is marked requesting appointment of an Administrator, however, the Petition is also marked requesting General Powers under the Request for Appointment for Special Administrator. Court may require clarification. 5. Petition does not address bond. Petitioner estimates personal property in the amount of \$47,000.00 therefore bond should be set at \$47,000.00 unless all heirs waive bond. 6. Item 8 of the Petition indicates that decedent's son Mark Murphy is deceased. Pursuant to Local Rule 7.1.1D if a beneficiary, heir, child, spouse, or registered domestic partner in any action before the Probate Court is deceased, that person's date of death shall be included in the Petition. 7. Need ages and mailing addresses of sons, Michael Charls Murphy and Allen Murphy and daughter, Cathleen Frisher named in Item 8 of the Petition for Probate. 8. Need Confidential Supplement to Duties and Liabilities.
<input checked="" type="checkbox"/> Verified	Residence: Fresno	
<input type="checkbox"/> Inventory	Publication: NEED	
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.	<u>Estimated Value of the Estate:</u>	
<input type="checkbox"/> Notice of Hrg	Personal property - \$47,000.00	
<input type="checkbox"/> Aff.Mail	Probate Referee: STEVEN DIEBERT	
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input checked="" type="checkbox"/> Letters		
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		Updates:
		Contacts: copy of notes in file
		Recommendation:
		Reviewed by: JF
		File 15 - Murphy

16 Luis Andrade, Jr., Maria Andrade, Antonio Rivera, Zaiden Carney and Essence Carney (GUARD/P)

Case No. 11CEPR00655

Atty Belmontes, Sylvia (pro per – maternal grandmother/Petitioner)

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Luis, 7 DOB: 02/14/04		<p align="center"><u>NO TEMPORARY REQUESTED</u></p> <p>SYLVIA BELMONTES, maternal grandmother, is Petitioner.</p> <p>Father (Luis & Maria): LUIS ANDRADE, SR. – <i>declaration of due diligence filed 09/06/11</i></p> <p>Father (Antonio): ALBERT DIAZ, III – <i>currently incarcerated</i></p> <p>Father (Zaiden & Essence): WILLIAM CARNEY, JR. – <i>declaration of due diligence filed 09/06/11</i></p> <p>Mother: BONNIE RIVERA – <i>consent & waiver of notice filed 09/06/11</i></p> <p>Paternal grandparents (Luis & Maria): MIGUEL ANDRADE – <i>declaration of due diligence filed 09/06/11</i> GUADALUPE FIGUEROA – <i>served by mail 08/26/11</i></p> <p>Paternal grandparents (Antonio): ALBERT DIAZ – <i>served by mail 08/26/11</i> DOREEN YEPES – <i>served by mail 09/06/11</i></p> <p>Paternal grandfather (Zaiden & Essence): WILLIAM CARNEY – <i>declaration of due diligence filed 09/06/11</i> LATAVIA ESTERS – <i>served by mail 08/26/11</i></p> <p>Maternal grandfather: RUSSELL BELMONTES, JR. – <i>served by mail 08/26/11</i></p> <p>Petitioner states mother left the children with her and said she could no longer be a mother and did not want the children anymore. Zaiden & Essence's father is incarcerated for domestic violence, Maria & Luis' father is disabled and not able to care for the children, and Antonio's father has never attempted to bond with him.</p> <p>Court Investigtor Jennifer Young's Report filed 09/23/11.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need proof of personal service at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian or Consent and Waiver of Notice or Declaration of Due Diligence</i> for: - Albert Diaz, III (Antonio's father – currently incarcerated at Wasco State Prison)</p>
Maria, 6 DOB: 01/20/05			
Antonio, 4 DOB: 05/11/07			
Zaiden, 2 DOB: 08/05/09			
Essence, 1 DOB: 08/04/10			
Cont. from			
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv. x		
✓	Conf. Screen		
✓	Letters		
✓	Duties/Supp		
	Objections		
	Video Receipt		
✓	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
✓	UCCJEA		
	Citation		
	FTB Notice		
		<p>Reviewed by: JF</p> <p>Reviewed on: 09/22/11</p> <p>Updates: 09/26/11</p> <p>Recommendation:</p> <p>File 16 – Andrade, Rivera & Carney</p>	

Atty Blanco, Rosemary (pro per Petitioner/paternal grandmother

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Cain age: 11 years DOB: 11/30/99		<p><u>TEMPORARY EXPIRES 09/29/11</u></p> <p>ROSEMARY BLANCO, paternal grandmother, is petitioner.</p> <p>Father: ANTHONY BLANCO – <i>personally served 08/02/11</i></p> <p>Mother: ORIANA BLANCO – <i>court dispensed with further notice 08/08/11</i></p> <p>Paternal grandfather: Jesus Blanco Maternal grandfather: Joe Rodriguez Maternal grandmother: Grace Moreno</p> <p>Petitioner states that the children have always lived with her. Their mother has been gone for 1.5 years and her son [children's father] has not been around them much either. Petitioner stated that their father pulled the children from her home and took them to stay in a house with 6 other children and 5 adults because he was angry that the Petitioner would not allow him and his pregnant girlfriend to move in to her home. Petitioner states the father uses the children as pawns to get what he wants. If he does not get his way, then he takes the children out of Petitioner's home.</p> <p>Court Investigator Samantha Henson's report filed 09/16/11.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need proof of service by mail at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Guardianship</i> <u>or</u> Consent and Waiver of Notice <u>or</u> Declaration of Due Diligence for: <ul style="list-style-type: none"> - Jesus Blanco (Paternal grandfather) - Joe Rodriguez (maternal grandfather) - Grace Moreno (maternal grandmother) 2. Need UCCJEA.
Trinity age: 8 years DOB: 2/19/2003			
Vanity age: 7 years DOB: 3/18/04			
Cont. from			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
✓ Notice of Hrg			
Aff.Mail	x		
Aff.Pub.			
Sp.Ntc.			
✓ Pers.Serv.			
✓ Conf. Screen			
✓ Letters			
✓ Duties/Supp			
Objections			
Video Receipt			
✓ CI Report			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
UCCJEA	x		
Citation			
FTB Notice			

Reviewed by: JF
Reviewed on: 09/22/11
Updates:
Recommendation:
File 17 – Blanco

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Age: 9 years	NO TEMPORARY REQUESTED	NEEDS/PROBLEMS/COMMENTS: Note: UCCJEA form filed on 8/3/2011 indicates the child lives with his mother. <ol style="list-style-type: none"> <i>Petition</i> filed 8/3/2011 is not signed and verified by the Petitioner. Need <i>Notice of Hearing</i> and proof of personal service of the <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian</i>, or <i>Consent to Appointment of Guardian and Waiver of Notice</i>, or a <i>Declaration of Due Diligence</i>, for: <ul style="list-style-type: none"> Julie Lopez, mother; Douglas W. Cline, Sr., father (<i>Note: Declaration of Due Diligence filed on 8/3/2011 for the father states Petitioner located the father's address and that the last contact Petitioner had with the father was "sometime last year", and does not indicate any efforts by Petitioner to personally serve the father.</i>) Need proof of service by mail of the <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian</i>, or <i>Consent to Appointment of Guardian and Waiver of Notice</i>, or a <i>Declaration of Due Diligence</i>, for: <ul style="list-style-type: none"> Danny Cline, paternal grandfather; Julie Turner, paternal grandmother; Anthony Lopez, maternal grandfather; Donna Valenzuela, sister; Joann Lopez, sister; Douglas W. Cline, Jr., brother; Isabel Cline, sister; Savannah Cline, sister. UCCJEA form filed on 8/3/2011 does not provide residence information for the last 5 years as required. <i>Indian Child Inquiry Attachment</i> filed 8/30/2011 indicates the child is or may be a member of the North-Fork Rancheria Indian Tribe. File contains a blank copy of the required <i>Notice of Child Custody Proceeding for Indian Child</i> (form ICWA-030) to give to the Petitioner, which must be completed by the Petitioner and returned to the Probate Clerk's office for mailing by the Clerk to the required agencies.
DOB: 1/10/2002	PATRICIA LOPEZ , maternal grandmother, is Petitioner.	
Cont. from	Father: DOUGLAS W. CLINE, SR. ; <i>incarcerated; Declaration of Due Diligence filed 8/3/2011;</i>	
Aff.Sub.Wit.	Mother: JULIA LOPEZ	
Verified X	Paternal grandfather: Danny Cline	
Inventory	Paternal grandmother: Julie Turner	
PTC	Maternal grandfather: Anthony Lopez	
ICWA-030 X	Petitioner states the mother is going through a lot of issues and she needs to work them out, and Petitioner feels the child would be better with her right now and she will provide the child everything he will need.	
Notice of Hrg X	Court Investigator Jennifer Young's Report was filed on 9/23/2011.	
Aff.Mail X	Court Investigator Jennifer Young's Supplemental Report was filed on 9/26/2011.	
Aff.Pub.		
Sp.Ntc.		
Pers.Serv. X		
<input checked="" type="checkbox"/> Conf. Screen		
Aff. Posting		
<input checked="" type="checkbox"/> Duties/Supp		
Objections		
Video Receipt		
<input checked="" type="checkbox"/> CI Report		
<input checked="" type="checkbox"/> Clearances		
<input checked="" type="checkbox"/> Order		
<input checked="" type="checkbox"/> Letters		
Status Rpt		
<input checked="" type="checkbox"/> UCCJEA		
Citation		
FTB Notice		

Reviewed by: LEG
Reviewed on: 9/23/11
Updates: 9/26/11
Recommendation:
File 18 - Cline

Petition to Determine Succession to Real Property (Prob. C. 13151)

DOD: 5-11-11		MONICA VILLAREAL , Daughter, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>Minute Order 9-20-11</u> : The Court directs Petitioner to give notice to the other parties. Matter continued to 9-29-11. <u>As of 9-22-11, the following issues remain:</u> 1. The Public Administrator was appointed Administrator of the Estate on 8-30-11 in 11CEPR00636. Probate Code §13152(a)(5)(B) requires written consent to the use of this procedure by the Public Administrator. <u>Examiner Notes</u> that the Decedent's Will dated 11-6-08 was <u>not</u> admitted to probate on the date the Public Administrator was appointed. As such, it may be inappropriate to proceed with a petition to determine succession based on the Will at this time. <p style="text-align: center;"><u>SEE PAGE 2</u></p>
		40 days since DOD	
		Petitioner states there are no other proceedings.	
Cont. from 092011		Will dated 11-6-08 devises entire estate to Petitioner.	
<input type="checkbox"/>	Aff.Sub.Wit.	S/P	
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg	X	
<input type="checkbox"/>	Aff.Mail	X	
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order	X	
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

Petition to Determine Succession to Real Property (Prob. C. 13151)

2. Decedent executed a quitclaim deed to herself, Demetria Mijangos, and Jose Mejangos in joint tenancy, and later executed a deed severing the joint tenancy. It is this Examiner's understanding that in severing the joint tenancy, Decedent's remaining interest would be a 1/3 interest as a tenant-in-common with Demetria Mijangos, and Jose Mijangos.

The Inventory and Appraisal provided does not indicate a divided interest. Rather, it values the property at \$40,000.00. Examiner notes that the estimated value of the probate estate provided by Demetria Mijangos was \$13,000.00, which is approximately 1/3 of \$40,000.00.

Need clarification:

- Does the I&A value of \$40,000.00 represent a 100% interest in the property, or a 1/3 interest?
- Does this petition assume that Decedent owned a 100% interest in the property at her date of death?
- What percentage does Petitioner request court determination of as passing to her?

3. Need Order.